

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION

JONATHAN HENDRIX, et al.

PLAINTIFFS

v.

3:07CV00151HLJ

DICK BUSBY, et al.

DEFENDANTS

ORDER

Plaintiffs Jonathan Hendrix, Aaron Hendrix, and Adrian Jacobs have filed a pro se civil rights action pursuant to 42 U.S.C. § 1983. However, only Jonathan Hendrix has filed an Application to Proceed In Forma Pauperis in order to commence the action without prepayment of the \$350.00 filing fee and costs.<sup>1</sup>

In addition, the Court notes that while the allegations of Jonathan and Aaron Hendrix relate to a single incident which occurred on September 8, 2007, the allegations of Adrian Jacobs relate to a separate, unrelated incident which occurred on September 21, 2007. Therefore, the Court finds that these incidents should be separated into two complaints, one involving the September 8, 2007 incident, and the other involving the September 21, 2007 incident.

According to the Prison Litigation Reform Act (PLRA), **a prisoner who is allowed to file a civil action in forma pauperis still must pay the full amount of the \$350 filing fee.** See 28 U.S.C. § 1915(b)(1). Furthermore, before docketing the complaint or, as soon thereafter as practicable, the Court must review the complaint to identify cognizable claims or dismiss the complaint if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. See 28 U.S.C. § 1915A. **If the case is dismissed for any of these reasons, there is no provision in the**

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<sup>1</sup>Effective April 10, 2006, the statutory fee for filing civil complaints increased to \$350.00.

**Act for a refund of any portion of the filing fee to the prisoner.**

Under the Act, in order for the Court to determine how the \$350 filing fee will be paid, the prisoner is required to submit an in forma pauperis application, together with a calculation sheet prepared and executed by an authorized official of the incarcerating facility. This calculation sheet reflects the deposits and monthly balances in the inmate's trust account at the facility during the six-month period immediately preceding the filing of the complaint. See 28 U.S.C. § 1915(a)(2). However, the Act also provides that **in no event shall a prisoner be prohibited from bringing a civil action because he "has no assets and no means by which to pay the initial partial filing fee."** 28 U.S.C. § 1915(b)(3).

In this particular case, although Jonathan Hendrix has filed an in forma pauperis application, Aaron Hendrix has not submitted such an application. Therefore, the Court will direct Aaron Hendrix to pay the \$350 filing fee or file an in forma pauperis application within fifteen days of the date of this Order. In addition, if plaintiff Adrian Jacobs wishes to pursue his claim against defendants, he also must submit an in forma pauperis application, together with a separate civil rights complaint on forms which will be provided. Accordingly,

IT IS THEREFORE ORDERED THAT plaintiff Aaron Hendrix must submit either the \$350 statutory filing fee or an in forma pauperis application within fifteen (15) days of the entry date of this Order.<sup>2</sup>

IT IS FURTHER ORDERED that plaintiff Adrian Jacobs shall submit a separate § 1983 complaint, together with the \$350 statutory filing fee or an in forma pauperis application within

The Plaintiffs are hereby notified of their responsibility to comply with the Local Rules of the Court, including Rule 5.5(c)(2), which states: ". . . If any communication from the Court to a pro se plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding pro se shall be expected to be familiar with and follow the Federal Rules of Civil Procedure."

fifteen (15) days of the date of this Order.

The Clerk is directed to send in forma pauperis applications and the filing fee calculation sheets to Aaron Hendrix and Adrian Jacobs. The Clerk shall also send to Adrian Jacobs a § 1983 complaint form.

DATED this 25th day of October, 2007.

  
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United States Magistrate Judge